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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,628	02/20/2004	Takashi Murai	Q79816	4140
23373 7590 06/12/2008				
SUGHRUE MION, PLLC				
2100 PENNSYLVANIA AVENUE, N.W.				
SUITE 800				
WASHINGTON, DC 20037				
EXAMINER				
DANIEL JR, WILLIE J				
ART UNIT		PAPER NUMBER		
2617				
MAIL DATE		DELIVERY MODE		
06/12/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/781,628

Applicant(s)

MURAI ET AL.

Examiner

WILLIE J. DANIEL JR

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 7 and 9-11 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 1-3 and 7 is/are allowed.
6) ☒ Claim(s) 9 and 10 is/are rejected.
7) ☒ Claim(s) 11 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

1. This action is in response to applicant's amendment filed on 25 April 2008. **Claims 1-3, 7, and 9-11** are now pending in the present application and **claims 5-6, 8, and 12-15** are cancelled. This office action is made **Final**.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Ayres et al.** (hereinafter Ayres) (**US 2003/0078986 A1**) in view of **Trossen et al.** (hereinafter Trossen) (**US 2004/0111476 A1**) and **Cohn et al.** (hereinafter Cohn) (**US 2002/0065074 A1**).

Regarding **claim 9**, Ayres discloses a system for distributing video (e.g., multimedia MM) information based on push technology (see pg. 4, [0039-0040]), comprising:

a mobile phone that receives said video information from a video contents server (e.g., multimedia distribution server - MDK 12, 14, 16) configured to store therein the video information to be distributed (see pg. 2, [0020]; pg. 5, [0053]);

a user management server (MDK server 140) which controls user registration and video information distribution via a network (see pg. 4, [0039-0040]),

wherein said video contents server is under control of said user management server,
wherein a user request for a video information distribution service about an area to the user is

received by said user management server in advance (see pg. 1, [0009-0010]; pg. 4, [0045]), where the MDK server 140 includes a subscriber registration module (142); and

said video information about the area is distributed from the video contents server to said mobile phone via said push technology (see pg. 2, [0020]; pg. 5, [0053]).

the video information is displayed in real time (see pg. 3, [0027]; pg. 2, [0020]). Trossen does not specifically disclose having the feature(s) a traffic monitoring apparatus that measures a traffic level of a radio channel to which the mobile phone is connected, wherein when said traffic is lower than a threshold, said video information about the area is distributed from the video contents server to said mobile phone via said push technology, and if the mobile phone is not in use and the video information has not already been provided. However, the examiner maintains that the feature(s) a traffic monitoring apparatus that measures a traffic level of a radio channel to which the mobile phone is connected, wherein when said traffic is lower than a threshold, said video information about the area is distributed from the video contents server to said mobile phone via said push technology was well known in the art, as taught by Trossen.

In the same field of endeavor, Trossen discloses the feature(s) a traffic monitoring apparatus that measures a traffic level of a radio channel to which the mobile phone is connected, wherein when said traffic is lower than a threshold, said video information about the area is distributed from the video contents server to said mobile phone via said push technology (see pg. 4, [0033]; pg. 7, 0046-0047)), where the message recipient can define a recipient rule that only permits delivery of specific portions of multimedia messages, such as text portions of multimedia messages that also contain, for example, graphic, audio, and/or

video content; and a network rule for message delivery can be defined based on an amount of traffic on the network over which the media content is to be delivered, such as sending the media content when the network traffic is below a threshold (see pg. 7, 0046-0047)).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Ayres and Trossen to have the feature(s) a traffic monitoring apparatus that measures a traffic level of a radio channel to which the mobile phone is connected, wherein when said traffic is lower than a threshold, said video information about the area is distributed from the video contents server to said mobile phone via said push technology, in order to allow rules to be defined so as to facilitate fast, efficient and expensive delivery of media content to subscribers, as taught by Trossen (see pg. 2, [0014]; pg. 10, [0068]). The combination Ayres and Trossen does not specifically disclose having the feature(s) if the mobile phone is not in use and the video information has not already been provided. However, the examiner maintains that the feature(s) if the mobile phone is not in use and the video information has not already been provided was well known in the art, as taught by Cohn.

Cohn further discloses the feature(s) if the mobile phone (e.g., wireless handheld device 18) is not in use and the video information has not already been provided (see pg. 2, [0022, 0024, 0036]; pg. 3, [0050]), where the device can receive single use video content. Also, Cohn further discloses the feature mobile phone that is not in use (see pgs. 1-2, [0013]), where the wireless device lost connection (in other words, not in use) and has to re-establish the communication link to receive the data not received.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Ayres, Trossen, and Cohn to have the feature(s) if the mobile phone is not in use and the video information has not already been provided, in order to provide wireless delivery, downloading, playback and management of multimedia content on a mobile device, as taught by Cohn (see pg. 1, [0011]).

Regarding **claim 10**, Ayres, as applied above in claim 9, discloses wherein said video information about the area is distributed from the video contents server via said push technology (see pg. 1, [0009-0010]; pg. 4, [0045]), where the MDK server 140 includes a subscriber registration module (142). Trossen does not specifically disclose having the features wherein when said traffic is lower than the threshold and when the mobile phone is in the area. However, the examiner maintains that the features wherein when said traffic is lower than the threshold and when the mobile phone is in the area was well known in the art, as taught by Trossen.

Trossen further discloses the features wherein when said traffic is lower than the threshold and when the mobile phone is in the area (see pg. 4, [0033]; pg. 7, 0046-0047]), where the message recipient can define a recipient rule that only permits delivery of specific portions of multimedia messages, such as text portions of multimedia messages that also contain, for example, graphic, audio, and/or video content; and a network rule for message delivery can be defined based on an amount of traffic on the network over which the media content is to be delivered, such as sending the media content when the network traffic is below a threshold (see pg. 7, 0046-0047)).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Ayres, Trossen, and Cohn to have the features wherein when said traffic is lower than the threshold and when the mobile phone is in the area, in order to allow rules to be defined so as to facilitate fast, efficient and expensive delivery of media content to subscribers, as taught by Trossen (see pg. 2, [0014]; pg. 10, [0068]).

Response to Allowable Subject Matter

3. The indicated allowability of claims 9-10 are withdrawn in view of maintaining the previous rejection applied to the claims.

Allowable Subject Matter

4. Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
5. Claims 1-3 and 7 are allowed.

Reasons For Allowance

6. The following is a statement of reasons for the indication of allowable subject matter:

Claims 1-3 and 7 are allowed in view of applicant's amendment and accompanying remarks.

Response to Arguments

7. Applicant's arguments filed 25 April 2008 have been fully considered but they are not persuasive.

The Examiner respectfully disagrees with applicant's arguments as the applied reference(s) provide more than adequate support and to further clarify (see the above claims for relevant citations).

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIE J. DANIEL JR whose telephone number is (571)272-7907. The examiner can normally be reached on 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on (571) 272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/WJD,Jr/

WJD,Jr
05 June 2008

/Charles N. Appiah/
Supervisory Patent Examiner, Art Unit 2617